

Article - Tax - General

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§10–702.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) “Business entity” means:

1. a person conducting or operating a trade or business;

or

2. an organization that is exempt from taxation under § 501(c)(3) or (4) of the Internal Revenue Code.

(ii) “Business entity” does not include a person owning, operating, developing, constructing, or rehabilitating property intended for use primarily as single or multifamily residential property located within the enterprise zone.

(3) “Economically disadvantaged individual” means an individual who is certified by provisions that the Department of Labor, Licensing, and Regulation adopts as an individual who, before becoming employed by a business entity in an enterprise zone:

(i) was both unemployed for at least 30 consecutive days and qualified to participate in training activities for the economically disadvantaged under the federal Workforce Innovation and Opportunity Act or its successor; or

(ii) in the absence of an applicable federal act, met the criteria for an economically disadvantaged individual that the Secretary of Labor, Licensing, and Regulation sets.

(4) (i) “Enterprise zone” has the meaning stated in § 5–701 of the Economic Development Article.

(ii) “Enterprise zone” includes a Regional Institution Strategic Enterprise zone established under Title 5, Subtitle 14 of the Economic Development Article.

(5) “Focus area” has the meaning stated in § 5–701 of the Economic Development Article.

(6) “Focus area employee” means an individual who:

(i) is a new employee or an employee rehired after being laid off for more than 1 year by a business entity;

(ii) is employed by a business entity at least 35 hours each week for at least 12 months before or during the taxable year for which the entity claims a credit;

(iii) spends at least 50 percent of the hours under item (ii) of this paragraph either in the focus area or on activities of the business entity resulting directly from its location in the focus area;

(iv) is hired by the business entity after the later of:

1. the date on which the focus area is designated; or
2. the date on which the business entity located in the focus area; and

(v) earns at least 150 percent of the federal minimum wage.

(7) “Qualified employee” means an individual who:

(i) is a new employee or an employee rehired after being laid off for more than 1 year by a business entity;

(ii) is employed by a business entity at least 35 hours each week for at least 6 months before or during the taxable year for which the entity claims a credit;

(iii) spends at least 50% of the hours under item (ii) of this paragraph, either in the enterprise zone or on activities of the business entity resulting directly from its location in the enterprise zone;

(iv) earns at least 150% of the federal minimum wage; and

(v) is hired by the business entity after the later of:

1. the date on which the enterprise zone is designated;
 2. the date on which the business entity locates in the enterprise zone.
- or

(b) (1) Any business entity that is located in an enterprise zone and satisfies the requirements of § 5–707 of the Economic Development Article may claim a credit only against the State income tax for the wages specified in subsections (c) and (d) of this section that are paid in the taxable year for which the entity claims the credit.

(2) A business entity that is located in a focus area and satisfies the requirements of § 5–707 of the Economic Development Article may claim a credit only against the State income tax for the wages specified in subsection (e) of this section that are paid to a focus area employee in the taxable year for which the entity claims the credit.

(3) An organization that is exempt from taxation under § 501(c)(3) or (4) of the Internal Revenue Code may apply the credit under this section as a credit against income tax due on unrelated business taxable income as provided under §§ 10–304 and 10–812 of this title.

(c) If a business entity does not claim an enhanced tax credit under subsection (e) of this section for a focus area employee, for the taxable year in which a business entity satisfies the requirements of § 5–707 or § 5–1406 of the Economic Development Article, a credit is allowed that equals:

(1) up to \$3,000 of the wages paid to each qualified employee who:

(i) is an economically disadvantaged individual; and

(ii) is not hired to replace an individual whom the business entity employed in that or any of the 3 preceding taxable years; and

(2) up to \$1,000 of the wages paid to each qualified employee who:

(i) is not an economically disadvantaged individual; and

(ii) is not hired to replace an individual whom the business entity employed in that or any of the 3 preceding taxable years.

(d) (1) If a business entity does not claim an enhanced tax credit under subsection (e) of this section for a focus area employee, for each taxable year after the taxable year described in subsection (c) of this section, while the area is designated an enterprise zone, a credit is allowed that equals:

(i) up to \$3,000 of the wages paid to each qualified employee who:

1. is an economically disadvantaged individual;
2. became a qualified employee during the taxable year to which the credit applies; and

3. is not hired to replace an individual whom the business entity employed in that or any of the 3 preceding taxable years;

- (ii) up to \$2,000 of the wages paid to each qualified employee who is an economically disadvantaged individual, if the business entity received a credit under subsection (c)(1) of this section for the qualified employee in the immediately preceding taxable year; and

- (iii) up to \$1,000 of the wages paid to each qualified employee who is not hired to replace an individual whom the business entity employed in that or any of the 3 preceding taxable years if the qualified employee:

1. is an economically disadvantaged individual for whom the business entity received a credit under subsection (c)(1) of this section or item (i) of this paragraph and a credit under item (ii) of this paragraph in the 2 immediately preceding taxable years; or

2. is not an economically disadvantaged individual but became a qualified employee during the taxable year to which the credit applies.

(2) A business entity that hires a qualified employee to replace another qualified employee for whom the business entity received a credit under subsection (c)(1) of this section and paragraph (1)(ii) of this subsection in the immediately preceding taxable year may treat the new qualified employee as the replacement for the other qualified employee to determine any credit that may be available to the business entity under paragraph (1)(ii) or (iii) of this subsection.

(e) (1) For the taxable year in which a business entity satisfies the requirements of §§ 5–706 and 5–707 or § 5–1406 of the Economic Development Article, a credit is allowed that equals:

- (i) up to \$4,500 of the wages paid to each focus area employee who:

1. is an economically disadvantaged individual; and
 2. is not hired to replace an individual whom the business entity employed in that year or any of the 3 preceding taxable years; and

who: (ii) up to \$1,500 of the wages paid to each focus area employee

1. is not an economically disadvantaged individual;
and

2. is not hired to replace an individual whom the business entity employed in that year or any of the 3 preceding taxable years.

(2) For each taxable year after the taxable year described in paragraph (1) of this subsection, while the area is designated a focus area, a credit is allowed that equals:

who: (i) up to \$4,500 of the wages paid to each focus area employee

1. is an economically disadvantaged individual;
2. became a focus area employee during the taxable year to which the credit applies; and

3. is not hired to replace an individual whom the business entity employed in that year or any of the 3 preceding taxable years;

(ii) up to \$3,000 of the wages paid to each focus area employee who is an economically disadvantaged individual, if the business entity received a credit under paragraph (1)(i) of this subsection for the focus area employee in the immediately preceding taxable year; and

(iii) up to \$1,500 of the wages paid to each focus area employee who is not hired to replace an individual whom the business entity employed in that year or any of the 3 preceding taxable years if the focus area employee:

1. is an economically disadvantaged individual for whom the business entity received a credit under item (ii) of this paragraph in the 2 immediately preceding taxable years and under:

A. paragraph (1)(i) of this subsection; or

B. item (i) of this paragraph; or

2. is not an economically disadvantaged individual but became a focus area employee during the taxable year to which the credit applies.

(3) A business entity that hires a focus area employee to replace another focus area employee for whom the business entity received a credit under paragraph (1)(i) of this subsection and paragraph (2)(ii) of this subsection in the immediately preceding taxable year may treat the focus area employee as the replacement for the other focus area employee to determine any credit that may be available to the business entity under paragraph (2)(ii) or (iii) of this subsection.

(f) If the credit allowed under this section in any taxable year exceeds the State income tax for that taxable year, a business entity may apply the excess as a credit against the State income tax for succeeding taxable years until the earlier of:

(1) the full amount of the excess is used; or

(2) the expiration of the 5th taxable year from the date on which the business entity hired the qualified employee to whom the credit first applies.

(g) If a credit is claimed under this section, the claimant must make the addition required in § 10–205, § 10–206, or § 10–306 of this title.

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